



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-1902/2
KP&EVM:amn

2021 SENATE BILL 490

August 5, 2021 - Introduced by Senators STROEBEL and COWLES, cosponsored by Representatives RAMTHUN, CABRAL-GUEVARA, GUNDRUM, MOSES, THIESFELDT and TUSLER. Referred to Committee on Utilities, Technology and Telecommunications.

1 **AN ACT** *to amend* 66.0401 (1m) (intro.); and *to create* 60.61 (5s), 62.23 (7) (j),
2 66.0401 (1s), 196.01 (5) (b) 8. and 196.376 of the statutes; **relating to:**
3 authorizing community solar programs and granting rule-making authority.

Analysis by the Legislative Reference Bureau

This bill authorizes the establishment of community solar programs through which retail electric customers may subscribe to a community solar facility and receive credits to their electric bills for electricity produced by the facility. Under the bill, entities called subscriber organizations may own or operate community solar facilities, which use solar energy to produce electricity and are connected to the electric distribution grid. Retail electric customers may enter into a contract (subscription) with a subscriber organization through which the customers receive credits towards their electric bill based on their subscriptions. A subscriber and the community solar facility to which the subscriber subscribes must be located within the service territory of the same electric utility. In addition, a subscriber may not receive an annual value of bill credits that exceeds the subscriber's average annual electric bill. Also, under the bill, subscribers may not receive any state subsidy for which generating electricity from a renewable energy resource is a criteria for eligibility nor may subscribers receive any payment or other benefit from a tax incremental district.

The bill requires an electric utility whose service territory includes subscribers to a community solar facility to credit the electric bills of the subscribers based on their subscriptions. Also, under the bill, at the time that an electric utility files tariffs

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with the Public Service Commission, the electric utility must include options in the tariffs that allow subscribers to receive bill credits for subscriptions to community solar facilities. The PSC must promulgate rules allowing for establishment of community solar facilities and for subscribers to receive electric bill credits for their subscriptions. The PSC must also establish a rate used to calculate the amount of bill credits that subscribers receive, and the rate must be set at a level that results in robust community solar facility development and all customer classes having access to subscriptions to community solar facilities. Under the bill, the PSC's community solar program rules must also satisfy various other requirements, including that the rules must modify existing interconnection standards, fees, and processes to facilitate interconnection of community solar facilities with the electric distribution grid and allow electric utilities to recover costs of applying credits to subscribers' bills. The bill also provides that new community solar facilities may not be established after June 30, 2031.

The bill also specifies that community solar facilities are subject to the zoning ordinances applicable to the parcels on which they are located. Also under the bill, a municipality may not grant an exception to its zoning ordinance if the exception would authorize the installation of a community solar facility unless the exception is approved by a two-thirds vote of the governing body of the municipality.

For further information see the state and local fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 60.61 (5s) of the statutes is created to read:

2 60.61 **(5s)** COMMUNITY SOLAR FACILITIES. Notwithstanding sub. (4e), no permit
3 for a conditional use, as defined in sub. (4e) (a) 1., or use variance, as defined in s.
4 62.23 (7) (e) 7. a., authorizing the installation of a community solar facility under s.
5 196.376 may be granted unless approved by a two-thirds vote of the town board.

6 **SECTION 2.** 62.23 (7) (j) of the statutes is created to read:

7 62.23 **(7)** (j) *Community solar facilities*. Notwithstanding pars. (de) and (e), no
8 permit for a conditional use, as defined in par. (de) 1. a., or use variance, as defined
9 in par. (e) 7. a., authorizing the installation of a community solar facility under s.
10 196.376 may be granted unless approved by a two-thirds vote of the common council.

11 **SECTION 3.** 66.0401 (1m) (intro.) of the statutes is amended to read:

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1 66.0401 **(1m)** AUTHORITY TO RESTRICT SYSTEMS LIMITED. (intro.) No political
2 subdivision may place any restriction, either directly or in effect, on the installation
3 or use of a wind energy system that is more restrictive than the rules promulgated
4 by the commission under s. 196.378 (4g) (b). No Except as provided in sub. (1s), no
5 political subdivision may place any restriction, either directly or in effect, on the
6 installation or use of a solar energy system, as defined in s. 13.48 (2) (h) 1. g., or a wind
7 energy system, unless the restriction satisfies one of the following conditions:

8 **SECTION 4.** 66.0401 (1s) of the statutes is created to read:

9 66.0401 **(1s)** REGULATION OF COMMUNITY SOLAR FACILITIES. Community solar
10 facilities under s. 196.376 are subject to any zoning ordinance applicable to the parcel
11 on which the community solar facility is located. The conditions under s. 66.0401
12 (1m) do not apply to restrictions on community solar facilities imposed by a zoning
13 ordinance of a political subdivision.

14 **SECTION 5.** 196.01 (5) (b) 8. of the statutes is created to read:

15 196.01 **(5)** (b) 8. A subscriber organization, as defined in s. 196.376 (1) (i), if,
16 besides owning or operating a community solar facility, the subscriber organization
17 does not otherwise directly or indirectly provide electricity to the public.

18 **SECTION 6.** 196.376 of the statutes is created to read:

19 **196.376 Community solar programs. (1) DEFINITIONS.** In this section:

20 (a) “Applicable bill credit rate” means the dollar-per-kilowatt-hour rate
21 determined by the commission that is used to calculate a subscriber’s bill credit.

22 (b) “Bill credit” means the monetary value of the electricity in kilowatt-hours
23 generated by the community solar facility allocated to a subscriber to offset that
24 subscriber’s electricity bill.

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1 (c) “Community solar facility” means a facility that generates electricity by
2 means of a solar photovoltaic device that produces for its subscribers a bill credit for
3 the electricity generated in proportion to the size of their subscription, and to which
4 all of the following apply:

5 1. The facility is connected to the electric distribution grid serving the state.

6 2. At the time the facility is initially approved by the commission, the facility
7 is located on one or more parcels of land and is not located within one mile, measured
8 from the point of interconnection, of a solar facility under the control of the same
9 entity.

10 3. The facility has at least 3 subscribers.

11 4. The facility generates not more than 5 megawatts of electricity.

12 5. No subscriber holds more than a 40 percent interest in the output of the
13 facility.

14 6. Not less than 60 percent of the capacity of the facility is subscribed to by
15 subscriptions of not more than 40 kilowatts.

16 (d) “Control” means the possession, direct or indirect, of the power to direct the
17 management and policies of an entity through any method.

18 (e) “Electric utility” means a public utility that sells electricity at retail.

19 (f) “Non-ministerial permit” means a permit or approval necessary to construct
20 a community solar facility that is not granted based on discretion.

21 (g) “Renewable energy credit” means a tradable credit that represents one
22 megawatt hour of electricity produced from a renewable resource.

23 (h) “Subscriber” means a retail electric customer of an electric utility who
24 satisfies all of the following:

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1 1. The subscriber owns one or more subscriptions to a community solar facility
2 interconnected with the electric utility.

3 2. The subscriber is located within the service territory of the electric utility
4 where the community solar facility is located.

5 (i) "Subscriber organization" means a for-profit or nonprofit entity that owns
6 or operates one or more community solar facilities.

7 (j) "Subscription" means a contract between a subscriber and the owner of a
8 community solar facility under which the estimated bill credits of the subscriber do
9 not exceed the average annual bill for the customer account to which the subscription
10 is attributed.

11 **(2) ADMINISTRATION.** (a) An electric utility shall provide a bill credit to a
12 subscriber's subsequent monthly electric bill for the proportional output of a
13 community solar facility attributable to that subscriber. The value of the bill credit
14 for the subscriber shall be calculated by multiplying the subscriber's portion of the
15 kilowatt-hour electricity production from the community solar facility by the
16 applicable bill credit rate for the subscriber. Any amount of the bill credit that
17 exceeds the subscriber's monthly bill shall be carried over and applied to the next
18 month's bill in perpetuity.

19 (b) No subscriber may receive a subsidy from this state for which generating
20 electricity from a renewable energy resource is a criteria for eligibility and no
21 subscriber may receive a payment or other benefit from a tax incremental district
22 under s. 66.1105.

23 (c) An electric utility shall provide bill credits to a community solar facility's
24 subscribers for electricity generated by the community solar facility for not less than
25 25 years from the date the community solar facility is first placed into operation.

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1 (d) A subscriber organization shall, periodically and in a standardized
2 electronic format, provide to the electric utility whose service territory includes the
3 location of the subscriber organization's community solar facility a subscriber list
4 indicating the percentage of generation attributable to each of the electric utility's
5 retail customers who are subscribers to a community solar facility in accordance with
6 the subscriber's portion of the output of the community solar facility. The electric
7 utility shall create a platform for the subscriber organization to periodically
8 communicate updates to its subscriber list to reflect canceling subscribers and new
9 subscribers. The electric utility shall apply bill credits to the bills of subscribers
10 within one billing cycle following the cycle during which the energy earning the bill
11 credits is generated by the community solar facility.

12 (e) An electric utility shall, on a monthly basis and in a standardized electronic
13 format, provide to a subscriber organization having a community solar facility
14 within the electric utility's service territory a report indicating the total value of bill
15 credits generated by the subscriber organization's community solar facility in the
16 prior month as well as the amount of the bill credit applied to each subscriber.

17 (f) A subscriber organization may accumulate bill credits if all of the electricity
18 generated by a community solar facility is not allocated to subscribers in a given
19 month. On an annual basis, the subscriber organization shall furnish to the electric
20 utility whose service territory includes the location of the subscriber organization's
21 community solar facility instructions for distributing accumulated bill credits to
22 subscribers. The electric utility shall pay accumulated bill credits to a subscriber
23 based on the subscriber's retail electricity rate.

24 (g) Any renewable energy credits created from a community solar facility's
25 production of electricity are the property of the subscriber organization that owns or

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1 operates the community solar facility. The subscriber organization may sell,
2 accumulate, retire, or distribute to subscribers the subscriber organization's
3 renewable energy credits.

4 (3) COMMISSION; DUTIES; RULES. (a) The commission shall promulgate rules
5 allowing for establishment of community solar facilities and for subscribers to
6 receive bill credits.

7 (b) At the time that an electric utility files tariffs with the commission, the
8 electric utility shall include options in the tariffs that allow subscribers to receive bill
9 credits for the subscriber's electricity bill.

10 (c) The commission shall establish an applicable bill credit rate to be used to
11 calculate bill credits for subscribers. The commission shall establish the applicable
12 bill credit rate at a level that results in robust community solar facility development
13 and all customer classes having access to subscriptions to community solar facilities.

14 (d) The rules promulgated under par. (a) shall do all of the following:

15 1. Reasonably allow for the creation and financing of community solar
16 facilities.

17 2. Allow all customer classes to participate as subscribers to a community solar
18 facility, and ensure participation opportunities for all customer classes.

19 3. Prohibit removing a customer from the customer's applicable customer class
20 because the customer subscribes to a community solar facility.

21 4. Reasonably allow for the transferability and portability of subscriptions,
22 including allowing a subscriber to retain a subscription to a community solar facility
23 if the subscriber moves within the same electric utility's service territory.

24 5. Modify existing interconnection standards, fees, and processes as needed to
25 facilitate the efficient and cost effective interconnection of community solar facilities

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1 and that allow an electric utility to recover reasonable interconnection costs for each
2 community solar facility.

3 6. Provide for consumer protection in accordance with existing laws.

4 7. Allow an electric utility to recover costs of applying bill credits under this
5 section.

6 8. Require that electric utilities efficiently connect community solar facilities
7 to the electrical distribution grid and do not discriminate against community solar
8 facilities.

9 9. Require a subscriber organization to satisfy interconnection process
10 benchmarks, demonstrate site control, and obtain all applicable non-ministerial
11 permits for a community solar facility before the subscriber organization owns or
12 operates the facility.

13 (4) SUNSET; NEW FACILITIES. A new community solar facility may not be
14 established after June 30, 2031.

15 (END)